

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MATTHEW GREEN,)	3:12-cv-00004-LRH-WGC
)	
Plaintiff,)	<u>MINUTES OF PROCEEDINGS</u>
)	
vs.)	APRIL 29, 2013
)	
ROBERT BANNISTER,)	
)	
Defendant.)	
)	

PRESENT: THE HONORABLE WILLIAM G. COBB, U.S. MAGISTRATE JUDGE

DEPUTY CLERK: Katie Lynn Ogden REPORTER: _____ FTR

COUNSEL FOR PLAINTIFF: Matthew Green, In Pro Per (Telephonically)

COUNSEL FOR DEFENDANT(S): Brian W. Hagen

MINUTES OF PROCEEDINGS: Motion Hearing

2:13 p.m. Court Convenes.

The record shall reflect that inmate Christopher Williams is participating today via telephone to assist plaintiff Matthew Green.

The court first addresses the Return Unexecuted USM-285 form (Dkt. #62) as to defendant Gary Graham and inquires whether plaintiff has received notice that Mr. Graham is deceased. Plaintiff did receive notice and requests that defendant Gary Graham be dismissed from this action. Mr. Hagen has no objection to plaintiff's request. Therefore, it is the order of the court that plaintiff's request is **GRANTED** and defendant Gary Graham is dismissed from this action without prejudice. The court notes that the sole remaining defendant in this action is Robert Bannister.

The court turns to the topic of any outstanding discovery in this action and whether Mr. Hagen has responding to plaintiff's discovery requests as to defendant Bannister. Mr. Hagen informs the court that he sent plaintiff a letter with documents attached, which included medical directives and administrative regulation descriptions. Plaintiff explains that he has received answers to interrogatories and some documents that are responsive to the requests for production of documents; however, there are discovery requests that have not been responded to.

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The court observes that, according to the Minutes Of Proceedings (Dkt. #59, paragraph VIII), Mr. Hagen was to respond to plaintiff's Motion to Compel Production of Document (Dkt. #50). Mr. Hagen advises the court that he mistakenly assumed, after sending the letter with attached documents to plaintiff, discovery was complete. Plaintiff advises the court that it is his position that discovery is not complete and there are remaining discovery disputes that have not been resolved.

The court expresses its concern that the deadline for plaintiff to respond to defendants' Motion for Summary Judgment (Dkt. #54), which is May 3, 2013, will be difficult for plaintiff to comply with if the discovery dispute remains unresolved. In view of this concern, the court and parties address plaintiff's Motion to Compel (Dkt. #50) and the outstanding discovery disputes. After discussion and representations made by the parties concerning the remaining discovery disputes the court orders the following:

Request for Production of Documents No.'s 9 and 10

Mr. Hagen represents that all documents responsive to these requests have been produced and/or made available for him to review. Furthermore, all documents attached to the defendants' Motion for Summary Judgment have been provided to plaintiff or were made available for him to review. Mr. Williams indicates that if it is defendants position that the documents have been produced and no additional documents are responsive to these requests, than plaintiff will agree that these outstanding discovery disputes are resolved. Therefore, the court orders that no further responses are necessary and Request for Production of Documents No.'s 9 and 10 are resolved.

Request for Production of Documents No. 11

The court indicates that this request does not appear to be appropriate because of the confidentiality issue regarding other inmate medical information, which is prohibited by institutional policy. Therefore, Request for Production of Document No. 11 is **DENIED**.

Request for Production of Documents No. 12

The court is not inclined to direct defendants to respond to this request because even if plaintiff were to tailor this request the research to respond would be burdensome. Furthermore, even if defendants were to respond to this request, it would still be difficult to establish whether Dr. Bannister was deliberately indifferent as to those other cases. Therefore, Request for Production of Documents is **DENIED**.

In light of resolving the remaining discovery disputes during today's hearing, plaintiff's Motion to Compel (Dkt. #50) is disposed of.

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IT IS SO ORDERED.

2:35 p.m. Court Adjourns.

LANCE S. WILSON, CLERK

By: /s/
Katie Lynn Ogden, Deputy Clerk